



August 17, 2005

Mr. Howard Bernstein
RPS Manager
Massachusetts Division of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Supplemental Comments to Division of Energy Resources, Renewable Energy Portfolio
Standard Notice of Inquiry, July 1, 2005

Dear Mr. Bernstein:

Associated Industries of Massachusetts (A.I.M.) would like to submit the following supplemental comments to our July 25, 2005 letter concerning the Division of Energy Resources (DOER)'s Renewable Energy Portfolio Standard Notice of Inquiry as dated July 1, 2005. These additional comments are based on our attendance at the July 28 stakeholder session in Worcester chaired by the DOER and the Department of Environmental Protection (DEP).

Our previous comments supported the expansion of the RPS program to include sources not included under the original proposals. Listening to the comments at the July 28 stakeholder conference only reinforces our belief that the current RPS program keeps Renewable Energy Credits (RECs) prices artificially high. The high cost of the RECs contributes to the already spiraling electricity costs driven by high natural gas costs (approximately 50 percent of the region's electricity is generated by natural gas).

At the stakeholder session, opponents of the proposed changes to increase the availability of RECs to sources not currently included under the existing law complained that investments they made (or were about to make) in renewable plants were based on the high costs of RECs — currently about \$50 per MWh. This argument, however, makes us suspicious of their motives, as it would fly in the face of good business practices.

When businesses invest in any project, the first analysis is to determine profit levels at certain price points. For instance, profit assumptions would be made at \$50 per MWh, \$40 per MWh, and so on. Since all early projections indicated that RECs would be trading in the \$20 range over time, one would have to conclude that that number would be a valid threshold for any investment decisions, particularly given the fact that programs such as these change all the time based on new information. It is inconceivable to us that any business would make long-term investments using short-term high numbers that all projections indicated would be declining in future years.

Understandably, the owners of these projects want to keep prices as high as possible. But even if the proposed changes are adopted, the availability of RECs will not drop the price significantly

immediately after the rules change. There will be many more years of high returns for current owners, and proponents of planned proposals can easily change investment decisions based on newly projected outcomes.

DEP and DOER should not unduly consider those comments or give them weight in excess of their importance in the overall program. It is not in DOER's or DEP's best interest to inject themselves into such financial matters. The goal of DOER and DEP on this matter is simple — increase the availability of creating RECs in the region that will result in significant renewable energy supply, rate stability and important environmental benefits.

When an applicant receives a Statement of Qualifications from the DOER, it is nothing more than a statement that the project meets the requirement of the regulations. Nowhere does it say that the price of RECs is guaranteed, nor does it say anywhere that regulations will never change. Everyone who has operated in the regulatory environment knows that regulations change over time. If this were otherwise, industries operating in Massachusetts, including power plants, would be the ones complaining. Environmental regulation for plants already built and permitted have been tightened over the years, forcing the owners of these facilities to spend millions in upgrades in order to continue to operate. In the opponent's view, environmental regulations would never get tighter, tax policies would never change and business costs and investments would never need to be reevaluated. This is fantasy. DEP's recent 310 CMR 7.29 regulations that affected just six power plants were a complete rewrite of air regulations for these operating facilities, forcing them to spend hundreds of millions of dollars to comply. Justified or not, DEP's explanation was that the new 310 CMR 7.29 regulations were done to improve the environment. We believe the same argument can be used here. Expanding the ability of facilities to obtain RECs is good for the environment in that it will displace other fuels used for electric generation while increasing the supply of RECs.

Expanding the availability of these RECs to vintage plants as well as to construction and demolition waste or wastepaper plants has two benefits besides the decrease in the price of RECs. First, DEP gets additional opportunities for disposal of these materials outside of land filling or transporting the material out of state. This will help DEP solve a difficult waste problem efficiently — namely the scarcity of proper disposal sites. Second, there is real concern that without allowing existing plants to obtain RECs, the existing plants will either shut down or the owners will need to spend enormous amounts of money to retool — tearing down and rebuilding plants to comply with basically a legal technicality — or worse, build in greenfields. This would be a ridiculous outcome and one that these proposed changes could avoid.

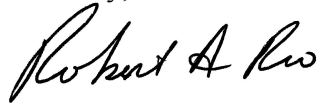
Finally, with regard to certain technologies considered in or out, DOER and DEP should let the market decide what the right technologies are. This is what restructuring the electric markets was all about. No technology should be excluded because it is not considered "new." If a technology can meet the performance standard it should be allowed — plain and simple. There is nothing magical about specific technologies.

DOER should be commended for re-evaluating this program as a result of changing market conditions. That shows leadership. As stated earlier, DEP and DOER have only one real goal — to encourage the building and operation of renewable sources at the most reasonable cost to ratepayers. DOER should be mindful of one thing — these costs are not free; ratepayers are paying the high prices for RECs and it does no one any good to keep the prices of these RECs high. DOER's allegiance should be to the ratepayers of Massachusetts — business and individuals — who are paying some of the highest electricity rates in the country. We need lower electric rates in

Massachusetts. When there is a way to do it without negatively affecting the environment, the choice should be clear. DOER and DEP have the power to achieve these positive goals with these proposed regulations.

Should you have any questions please do not hesitate to contact me at 617-262-1180.

Sincerely,

A handwritten signature in black ink, reading "Robert A. Rio". The signature is written in a cursive style with a large, stylized "R" at the beginning.

Robert A. Rio, Esq.

Vice President, Environmental Policy

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